



September 10, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

OFFICE OF THE MAYOR

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RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch,

The City of Corpus Christi writes to express its concerns about the Federal Communications Commission's (FCC) proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. The City of Corpus Christi is home-rule municipality with a population of more than 325,000 on the Texas Gulf Coast. The City was one of the first municipalities in Texas to offer free public wi-fi service citywide.

While we appreciate the FCC's efforts to engage with local governments on this issue and share the FCC's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability. Just a few weeks ago on August 28, the City adopted its own small cell ordinance authorizing network fees, regulations and design manual in compliance with Chapter 284, Texas Local Government Code.

The FCC's proposed new collocation shot clock category is too extreme. The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. These provisions are inconsistent with the newly adopted city design manual which requires small cell structures to comply with windstorm codes to protect public health and safety.

The FCC's proposed definition of "effective prohibition" is overly broad. The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the FCC may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding.

The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation. We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Cities, like Corpus Christi, share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why we have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, the FCC has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities?

The City of Corpus Christi opposes the FCC's efforts to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe McComb", with a long, sweeping horizontal line extending to the right.

Joe McComb
Mayor

cc: The Honorable John Cornyn, U.S. Senator
The Honorable Ted Cruz, U.S. Senator
The Honorable Michael Cloud, U.S. House of Representatives, District 27
Larry Meyers, Meyers & Associates
Clarence Anthony, National League of Cities
Tom Cochran, U.S. Conference of Mayors